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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/606,561	06/26/2003	Donald E. Weder	8403.929	4721
30589	7590	09/30/2004	EXAMINER	
DUNLAP, CODDING & ROGERS P.C. PO BOX 16370 OKLAHOMA CITY, OK 73113				PALO, FRANCIS T
ART UNIT		PAPER NUMBER		
		3644		

DATE MAILED: 09/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/606,561	WEDER, DONALD E.	
	<b>Examiner</b> Francis T. Palo	<b>Art Unit</b> 3644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 26 June 2003.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-40 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 26 June 2003 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>6/26/03</u> | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1-40** are rejected under 35 U.S.C. 103(a) as being unpatentable over Weder (US 4,279,811) 1981 in view of Weder (5,572,851) 1996.

Regarding **independent claim-1**:

Weder '811 discloses in the Abstract, a sheet material constructed of metallic foil laminated to a thin plastic film or sheet of polypropylene or the like; *Weder does not specifically disclose metal foil laminated to metallized film, as cited in the instant claim.*

Weder '851 teaches; "a material (56) having an upper and lower surface and an outer periphery, that is capable of being wrapped about a pot (30) or a floral grouping (46), and formed into a plant package (10)", (column-7, beginning at line-22).

Weder continues with material preferences, specifically; metal foil, non-polymer film, or lamination or combinations thereof.

*Weder '851 teaches therefore, a laminated material comprising metallic foil and non-polymer film; the Examiner further reads non-polymer film as encompassing metallized film, which would render a reading of a laminated material comprising metallic foil and metallized film, as cited in the instant claim.*

*Weder '811 in view of Weder '851, therefore renders obvious the laminate of the instant independent claim.*

It would have been obvious to one of ordinary skill in the art at the time the invention was made, to have substituted metallized film as taught by Weder '851, for the plastic film or sheet of polypropylene of Weder '811, as further such modification is merely an alternate equivalent non-polymeric film material performing the same intended function of providing aesthetic appeal, and reinforcement to the metal foil layer.

In conclusion, Weder '811 in view of Weder '851 renders obvious a laminated material comprising a layer of metal foil and a layer of metallized film; said material is further readable as an "ultra bright material" (which would be an inherency of the metal foil and film), as cited.

Furthermore, the reflectivity of the metal foil and metallized film, as cited in the instant claim would be inherent to the metal foil and metal film, (Weder '811 discloses aluminum foil as metallic foil; column-2, beginning at line-40).

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**Regarding independent claim-10:**

The discussion above regarding independent claim-1 is relied upon.

Independent claim-10 is a rewording of the material of instant claim-1, with the addition to the claim of an item surrounded and encompassed by the material recited in independent claim-1.

As discussed above in the rejection of independent claim-1; Weder '851 teaches; "a material (56) having an upper and lower surface and an outer periphery, that is capable of being wrapped about a pot (30) or a floral grouping (46), and formed into a plant package (10)", (column-7, beginning at line-22).

The discussion above regarding independent claim-1, encompasses the assembly of the instant independent claim.

**Regarding independent method claim-22:**

The discussion above regarding independent claim-1 is relied upon.

The method of forming the material of the instant method claim is inherent to the laminate of the instant independent claim-1.

**Regarding independent method claim-29:**

The discussions above regarding independent claims 1 and 10 are relied upon.

The method of wrapping an item as cited in the instant claim, is encompassed by the material of independent claim-1 and the method of independent claim-22.

**Regarding repeating claims 2, 11, 23 and 30:**

The discussions above regarding the independent claims are relied upon.

A bonding material is inherent to the laminated material of the independent claims.

**Regarding repeating claims 3, 12, 24 and 31:**

The discussions above regarding the independent claims are relied upon.

A bonding material is inherent to the laminated material of the independent claims, and an adhesive bonding material would also be encompassed by the inherent bonding material of the laminate of the independent claims.

**Regarding repeating claims 4, 13, 25 and 32:**

The discussions above regarding the independent claims are relied upon.

A bonding material is inherent to the laminated material of the independent claims, and a cohesive bonding material would also be encompassed by the inherent bonding material of the laminate of the independent claims.

**Regarding repeating claims 5, 14, 26 and 33:**

The discussions above regarding the independent claims are relied upon.

Weder '811 discloses the application of a single color of ink or other printing medium, and metallic materials would read on metallic finishes as cited in the instant claims.

**Regarding repeating claims 6, 15, 27 and 34:**

The discussions above regarding the independent claims are relied upon.

Weder '811 discloses the laminate construction as having the thickness usually employed as a wrapping material, so that it is easily flexible but yet will to some degree, retain its own shape after being deformed, (column-2, beginning at line 40); the disclosure is therefore readable on the thickness range cited in the instant claims.

**Regarding repeating claims 7, 16, 28 and 35:**

The discussions above regarding the independent claims are relied upon.

Weder '811 discloses the laminate construction as having the thickness usually employed as a wrapping material, so that it is easily flexible but yet will to some degree, retain its own shape after being deformed, (column-2, beginning at line 40); the disclosure is therefore readable on the thickness range cited in the instant claims.

**Regarding repeating claims 17 and 36:**

The discussions above regarding independent claims 10 and 29 are relied upon.

Weder '811 discloses the printing of metallic foil for use as a decorative wrap for flower pots and the like, (*Background Of The Invention*); said disclosure is readable on a floral wrapper as cited in the instant claims.

Regarding repeating **claims 18 and 37:**

The discussions above regarding independent claims 10 and 29 are relied upon.

Weder '811 discloses the printing of metallic foil for use as a decorative wrap for flower pots and the like, (*Background Of The Invention*); said disclosure is readable on a pot wrapper as cited in the instant claims.

Regarding repeating **claims 19 and 38:**

The discussions above regarding independent claims 10 and 29 are relied upon.

Weder '811 discloses the printing of metallic foil for use as a decorative wrap for flower pots and the like, (*Background Of The Invention*); said disclosure is readable on a preformed flower pot cover as cited in the instant claims.

Regarding repeating **claims 20 and 39:**

The discussions above regarding independent claims 10 and 29 are relied upon.

Weder '811 discloses the printing of metallic foil for use as a decorative wrap for flower pots and the like, (*Background Of The Invention*); said disclosure is readable on a floral sleeve wrapper as cited in the instant claims.

Regarding repeating **claims 21 and 40:**

The discussions above regarding independent claims 10 and 29 are relied upon.

Weder '811 discloses the printing of metallic foil for use as a decorative wrap for flower pots and the like, (*Background Of The Invention*); said disclosure is readable on a decorative pot cover as cited in the instant claims.

*Weder '811 is silent as to a removable sleeve portion as cited in the instant claim.*

Weder '851 teaches a removable sleeve portion as cited in the instant claims.

It would have been obvious to one of ordinary skill in the art at the time the invention was made, to have modified the sleeve of Weder '811 to include a removable sleeve portion as cited and as taught by Weder '851, for the well-known aesthetic advantages of that feature.

**Regarding claims 8 and 9:**

The discussion above regarding independent claim-1 is relied upon.

The material of the instant claims is capable of being cut into portions and pieces as cited in the instant claims, especially during the manufacture process wherein these cuttings could be read as for finishing purposes.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Francis T. Palo whose telephone number is 703-305-5595. The examiner can normally be reached on M-Tu., Th.-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teri Luu can be reached on 703-305-7421. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Francis T. Palo*  
Francis T. Palo  
Examiner  
Art Unit 3644